PROPOSED REGULATION FOR COMMERCIAL HARBOR CRAFT

Adopt new section X, title X, California Code of Regulations, to read as follows:
(Note: The entire text of section X set forth below is new language proposed to be added to the California Code of Regulations.)

Section X. Regulation for Commercial Harbor Craft.

(a) Purpose

The purpose of this regulation is to reduce diesel particulate matter (PM) and oxides of nitrogen (NOx) from compression ignition (CI) propulsion and auxiliary engines on commercial harbor craft that operate in California waters.

(b) Applicability

Except as provided in subsection (c), the regulation would apply to any person who conducts business in California who sells, offers for sale, leases, rents, purchases, owns or operates any new or in-use commercial harbor craft that operates in California waters. The regulation includes, but is not limited to, commercial harbor craft such as ferries, tug, tow, work, pilot, crew, commercial fishing, and passenger fishing boats. The regulation does not cover recreational vessels, stationary, and portable CI engines, or equipment already covered by another regulation or measure.

(c) Exemptions

(1) The requirements of this section do not apply to registered historical vessels;

(2) The requirements of this section do not apply to low use auxiliary and low use propulsion;

(3) The requirements of this section do not apply to vessels that use non-diesel fuel; and

(4) The requirements of this section do not apply to military vessels used exclusively for combat and tactical support.

(d) Definitions

For purposes of this section, the definitions of Health and Safety Code section 39010 through 39060 shall apply except to extent that such definitions may be modified by the following definitions that apply specifically to this regulation:

(1) “Alternative Diesel Fuel” means any fuel used in a CI engine that is not commonly or commercially known, sold, or represented by the supplier as diesel fuel No. 1-D or No. 2-D, pursuant to the specifications in ASTM D975-81, “Standard Specification for Diesel Fuel Oils,” as modified in May 1982, which is incorporated herein by reference, or an alternative fuel, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g., recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel that does not meet the definition of CARB diesel fuel; Fischer-Tropsch fuels; emulsions of water in diesel fuel; and fuels with a fuel additive, unless:

(A) the additive is supplied to the engine fuel by an on-board dosing mechanism, or

(B) the additive is directly mixed into the base fuel inside the fuel tank of the engine, or

(C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine.

(2) "Alternative Fuel" means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric commercial harbor craft only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. "Alternative fuel" also means any of these fuels used in combination with each other or in combination with other non-diesel fuel.

(3) "Baseline or Baseline Emissions" means the emissions level of a diesel-fueled compression ignition engine using CARB diesel fuel as configured upon initial marine installation.

(4) “California Air Resources Board (CARB) Diesel Fuel” means any diesel fuel that meets the specifications of vehicular diesel fuel, as defined in title 13 CCR, sections 2281, 2282, and 2284.

(5) “Carbon Monoxide (CO)” is a colorless, odorless gas resulting from the incomplete combustion of hydrocarbon fuels.

(6) “Combat and Tactical Support” refers to equipment that meets military specifications, is owned by the U.S. Department of Defense and / or the U.S. Military services or its allies, and is used in combat, combat support, combat services support, tactical or relief operations or training for such operations.

(7) “Commercial Harbor Craft” means a vessel that is not an historic vessel or a recreational vessel.

(8) "Compression Ignition (CI) Engine" means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine.

(9) "Crew Vessel" means

(10) "Diesel Fuel" means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons (HC) - organic compounds consisting exclusively of the elements carbon and hydrogen - that is sold or represented by the supplier as suitable for use in an internal combustion, compression-ignition engine.

(11) "Diesel-Fueled" means a CI engine fueled by diesel fuel, CARB diesel fuel, or jet fuel, in whole or part.

(12) "Diesel Oxidation Catalyst (DOC)" means a catalyst promoting oxidation processes in diesel exhaust, and usually designed to reduce emissions of the organic fraction of diesel particulates, gas-phase HC, and CO.

(13) "Diesel Particulate Filter (DPF)" means an emission control technology that reduces PM emissions by trapping the particles in a flow filter substrate and periodically removes the collected particles by either physical action or by oxidizing (burning off) the particles in a process called regeneration.

(14) "Diesel Particulate Matter (Diesel PM)" means the particles found in the exhaust of diesel-fueled CI engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(15) "Emission Control Strategy" means any device, system, or strategy employed with a diesel engine that is intended to reduce emissions, including, but not limited to, diesel oxidation catalysts, selective catalytic reduction systems, fuel additives, diesel particulate filters, alternative diesel fuels, water emulsified fuels, and any combination of the above.

(16) "Executive Officer" means the Executive Officer of the California Air Resources Board or his/her designee.

(17) "Ferry Boats" means

(18) "Fishing Vessel" means

(19) "Fleet" means the total number of commercial harbor craft owned, rented, or leased by a single owner or operator.

(20) “Fuel Additive” means any substance designed to be added to fuel or fuel systems or other engine-related engine systems such that it is present in-cylinder during combustion and has any of the following effects: decreased emissions, improved fuel economy, increased performance of the engine; or assists diesel emission control strategies in decreasing emissions, or improving fuel economy or increasing performance of the engine.

(21) "Harbor Craft" means any private, commercial, government, or military marine vessels except oceangoing ships and recreational marine watercraft. Harbor craft includes, but is not limited to, passenger ferries, tugboats, towboats, push-boats, commercial fishing boats, commercial passenger fishing vessels (sport fishing vessels), crew boats, work boats, pilot boats, supply boats, research vessels, and United States Coast Guard vessels that do not otherwise meet the definition of oceangoing ships or recreational marine vessels.

(22) "Heavy-duty Pilot Ignition Engine" means an engine designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on any energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

(23) “Hydrocarbon (HC)” means the sum of all hydrocarbon air pollutants.

(24) "In-Use or Used" means a CI engine or commercial harbor craft that is not a “new” CI engine or commercial harbor craft.

(25) “Lease” means a contract by which one conveys commercial harbor craft for a specified term and for a specified rent.

(26) “Level” means one of three categories of Air Resources Board-verified diesel emission control strategies as set forth in title 13, CCR, section 2701 et seq: Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent, Level 2 means the strategy reduces engine diesel particulate matter emissions by between 50 and 84 percent, and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel PM per brake horsepower-hour.

(27) “Low Use Auxiliary” means

(28) “Low Use Propulsion” means

(29) “Model Year” means the CI engine manufacturer’s annual production period, which includes January 1st of a calendar year, or if the manufacturer has no annual production period, the calendar year.

(30) "New Commercial Harbor Craft" means commercial harbor craft, or a diesel-fueled CI engine installed in commercial harbor craft, that is newly purchased, rented, or leased by an owner or operator on or after January 1, 2009.

(31) “Nitrogen Oxides (NOx)” means compounds of nitric oxide (NO), nitrogen dioxide (NO_2), and other oxides of nitrogen, which are typically created during combustion processes and are major contributors to smog formation and acid deposition.

(32) “Non-Methane Hydrocarbons (NMHC)” means the sum of all HC air pollutants except methane.

(33) “Ocean-going Vessel” means a commercial, government, or military vessel meeting any one of the following criteria:

(A) a vessel with a “registry” (foreign trade) endorsement on its United States Coast Guard certificate of documentation, or a vessel that is registered under the flag of a country other than the United States;

(B) a vessel greater than or equal to 400 feet in length overall (LOA) as defined in 50 CFR § 679.2, as adopted June 19, 1996;

(C) a vessel greater than or equal to 10,000 gross tons (GT ITC) per the convention measurement (international system) as defined in 46 CFR 69.51-.61, as adopted September 12, 1989; or

(D) a vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

(34) “Owner or Operator” means any person subject to the requirements of this section, including but not limited to:

(A) an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including but not limited to, a government corporation; and

(B) any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(35) “Particulate Matter (PM)” means the particles found in the exhaust of CI engines, which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(36) “Pilot Vessel” means

(37) “Portable CI Engine” means a compression ignition (CI) engine designed and capable of being carried or moved from one location to another. Indicators of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. Portable engines are not self-propelled.

(38) “Port” means facilities used for water-borne commerce.

(39) “Purchased” means the date shown on the front of the cashed check, the date of the financial transaction, or the date on the engine or commercial harbor craft purchasing agreement, whichever is earliest.

(40) “Recreational Vessel” means

(41) “Registered Historic Vessel” means

(42) “Rent” means payment for the use of commercial harbor craft for a specified term.

(43) “Retirement” or “Retire” means an engine or commercial harbor craft that will be taken out of service by an owner or operator and will not be operated in California waters. The engine or commercial harbor craft may be sold outside of California or scrapped.

(44) “Tier 2 Marine Emission Standards” means the emission standards promulgated by the United States Environmental Protection Agency (U.S. EPA) in “

(45) “Tier 3 Marine Emission Standards” means the emission standards promulgated by the United States Environmental Protection Agency (U.S. EPA) in “

(46) “Tow Boat” means

(47) “Tug Boat” means

(48) "Tier 4 Off-road Emission Standards" means the emission standards promulgated by the United States Environmental Protection Agency in "Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel; Final Rule" (Vol. 69, No. 124 Fed.Reg. pp. 38957-39273, June 29, 2004) which harmonize with the final amended emission standards for newly manufactured off-road engines approved by the Air Resources Board on December 12, 2004.

(49) "Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (Verification Procedure)" means the Air Resources Board (ARB) regulatory procedure codified in title 13, CCR, sections 2700-2710*,* which is incorporated herein by reference, that engine manufacturers, sellers, owners, or operators may use to verify the reductions of diesel PM or NOx from in-use diesel engines using a particular emission control strategy.

(50) "Verified Diesel Emission Control Strategy (VDECS)" means an emission control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the "Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines" in title 13, California Code of Regulations, commencing with section 2700.

(51) "Work Vessel" means

(e) Requirements

(1) Engine Sales:

After January 1, 2008, a person who is engaged in California in the business of selling an ultimate purchaser marine diesel-fueled off-road or marine compression ignition equipment, including but not limited to, manufacturers, distributors, and dealers, shall sell, offer for sale, import, deliver purchase, receive, or otherwise acquire a marine engine that will meet or exceed the most stringent U.S. EPA Tier 2 or Tier 3 marine emission standards.

(2) Performance Standards For Sales of New Commercial Harbor Craft:

Except as provided in subsection (c), on or after January 1, 2009, no owner or operator shall sell or operate any new commercial harbor craft or marine CI engine for use in California Waters unless they are equipped with engines that meet the most stringent U.S. EPA Tier 2 or Tier 3 marine standards applicable at the time of the marine vessel purchase.

(3) Sales of Existing or In-Use Commercial Harbor Craft:

Except as provided in subsection (c), on or after January 1, 2008, no owner or operator shall sell or operate any existing or in-use commercial harbor craft or marine CI engine for use in California Waters unless they are equipped with engines that meet the most stringent U.S. EPA Tier 2 or Tier 3 marine standards applicable at the time of the marine vessel purchase.

(4) Performance Standards For Owners or Operators of In-Use Commercial Harbor Craft Used as Ferry Boats, Tug Boats, or Tow Boats:

(A) Except as provided in subsection (c), on or after January 1, 2008, no person or company shall sell or operate any in-use commercial harbor craft for use in California waters as ferry, tug, or tow boats unless they are equipped with propulsion and auxiliary engines that meet the marine standards set forth below:

1. For Tier 0 or Tier 1 propulsion and auxiliary engines, owners and operators shall comply with the two phase compliance schedule in Table 1; there are two options to meet these standards:

    a. Option 1: By the dates in the Phase 1 compliance schedule install the highest level verified diesel emission control strategy (VDECS). By the dates in the Phase 2a compliance schedule replace the engine with a U.S. EPA Tier 3 engine; or

    b. Option 2: By the dates in the Phase 1 compliance schedule, replace the engine with a U.S. EPA Tier 2 engine. By the dates in the Phase 2b compliance schedule, replace the engine with a U.S. EPA Tier 3 engine or install the Level 3 control device on the Tier II engine.

2. For Tier 2 engines, owners and operators shall replace propulsion and auxiliary engines with Tier 3 engines by the dates in the Phase 2b compliance schedule of Table 1.

Table 1: Compliance Schedule for In-Use Ferry Boats / Tug / Tow Boats:

Phase 1
Meet Phase 1 Performance Standards in Option 1 or Option 2 by Dates Below

Annual Hours of Operation	Model Year Ferry Tug and Tow Compliance Dates					
	pre-1970 MY	1970-1979 MY	1980-1984 MY	1985-1987 MY	1988-2003 MY	2004+ MY
< 500*	2010	2011	2012	2012	2013	2013
501-1000	2009	2010	2011	2011	2013	2012
1001-1500	2008	2009	2010	2012	2012	2012
>1500	2008	2009	2009	2011	2011	2012

Phase 2a
Install a Tier 3 Engine by Dates Below

Annual Hours of Operation	Model Year Ferry, Tug, and Tow Compliance Dates					
	pre-1970 MY	1970-1979 MY	1980-1984 MY	1985-1987 MY	1988-2003 MY	2004+ MY
< 500*	2015	2016	2017	2017	2018	2018
501-1000	2014	2015	2016	2016	2018	2017
1001-1500	2013	2014	2015	2016	2017	2017
>1500	2013	2014	2014	2015	2016	2017

Phase 2b
Install a Level 3 VDEC or Tier III Engine

Annual Hours of Operation	Model Year Ferry, Tug, and Tow Compliance Dates					
	pre-1970 MY	1970-1979 MY	1980-1984 MY	1985-1987 MY	1988-2003 MY	2004+ MY
< 500*	2018	2019	2020	2020	2021	2021
501-1000	2017	2018	2019	2019	2021	2020
1001-1500	2016	2017	2018	2019	2020	2020
>1500	2016	2017	2017	2018	2019	2020

(5) Performance Standards For Owners or Operators of In-Use Commercial Harbor Craft Used as Work, Pilot, and Crew Vessels:

(A) Except as provided in subsection (c), on or after January 1, 2008, no person or company shall sell or operate any in-use or used commercial harbor craft for use in California waters as work, pilot, or crew vessels unless they are equipped with propulsion and auxiliary engines that meet the marine standards set forth below:

1. For Tier 0 or Tier 1 propulsion and auxiliary engines, owners and operators shall comply with the two phase compliance schedule in Table 2; there are two options to meet these standards:

    a. Option 1: By the dates in the Phase 1 compliance schedule install the highest verified diesel emission control strategy (VDECS) available. By the dates in the Phase 2a compliance schedule replace the engine with a U.S. EPA Tier 3 engine; or

    b. Option 2: By the dates in the Phase 1 compliance schedule, replace the engine with a U.S. EPA Tier 2 engine. By the dates in the Phase 2b compliance schedule, replace the engine with a U.S. EPA Tier 3 engine or install a Level 3 VDECS on the Tier II engine.

2. For Tier 2 engines, owners and operators shall replace propulsion and auxiliary engines with Tier 3 engines by the dates in the Phase 2b compliance schedule of Table 2.

Table 2: Compliance Schedule for In-Use Work, Pilot, and Crew Vessels

Phase 1
Meet Phase 1 Performance Standards in Option 1 or Option 2 by Dates Below

Annual Hours of Operation	Model Year Work, Pilot, and Crew Compliance Dates					
	pre-1970 MY	1970-1979 MY	1980-1984 MY	1985-1987 MY	1988-2003 MY	2004+ MY
< 500*	2010	2011	2012	2012	2013	2013
501-1000	2009	2010	2011	2011	2013	2012
1001-1500	2008	2009	2010	2012	2012	2012
>1500	2008	2009	2009	2011	2011	2012

Phase 2a
Install a Tier 3 Engine by Dates Below

Annual Hours of Operation	Model Year Work, Pilot, and Crew Compliance Dates					
	pre-1970 MY	1970-1979 MY	1980-1984 MY	1985-1987 MY	1988-2003 MY	2004+ MY
< 500*	2015	2016	2017	2017	2018	2018
501-1000	2014	2015	2016	2016	2018	2017
1001-1500	2013	2014	2015	2016	2017	2017
>1500	2013	2014	2014	2015	2016	2017

Phase 2b
Install a Level 3 VDEC on a Tier 2 Engine

Annual Hours of Operation	Model Year Work, Pilot, and Crew Compliance Dates					
	pre-1970 MY	1970-1979 MY	1980-1984 MY	1985-1987 MY	1988-2003 MY	2004+ MY
< 500*	2018	2019	2020	2020	2021	2021
501-1000	2017	2018	2019	2019	2021	2020
1001-1500	2016	2017	2018	2019	2020	2020
>1500	2016	2017	2017	2018	2019	2020

(6) Performance Standards For Owners or Operators of In-Use Fishing Vessels:

(A) Except as provided in subsection (c), on or after January 1, 2008, no person or company shall sell or operate any in-use fishing vessel for use in California waters unless they are equipped with engines that are retrofitted with a Level 1 VDECS by the compliance schedule in Table 3.

Table 3: Level 1 VDECS Install Compliance Schedule for In-Use or Used Fishing Vessels

Annual Hours of Operation	Model Year Fishing Vessel Compliance Dates					
	Pre-1970 MY	1970-1979 MY	1980-1984 MY	1985-1987 MY	1988-2003 MY	2004+ MY
< 500*	2011	2012	2013	2014	2015	2016
501-1000	2010	2011	2012	2013	2014	2015
1001-1500	2009	2010	2011	2012	2013	2014
>1500	2008	2009	2010	2011	2012	2013

(f) Compliance Extensions

An owner or operator may be granted an extension to a compliance deadline specified in subsection (e) for one of the following reasons. If a compliance extension is granted by the Executive Officer, the owner or operator shall be deemed to be in compliance as specified by the Executive Officer's authorization. Unless specifically stated, compliance extensions may not be combined or used consecutively, and only one compliance extension type may be granted per engine or commercial harbor craft.

(1) *Compliance Extension for an Engine Near Retirement*. If an owner or operator has applied a Compliance Option to its fleet pursuant to the schedule set forth in Table 1, Table 2, or Table 3 of subsection (e), and the next engine subject to the Compliance Options is scheduled to be retired from the active fleet within one year of the applicable compliance deadline, the owner or operator does not need to apply a Compliance Option to that engine for up to one year, provided the owner or operator maintains appropriate records and documentation, as specified in subparagraph (f)(2)(A), regarding the assigned retirement date and the engine is retired on or before the assigned date. If upon inspection, ARB finds the aforementioned conditions to have not been met, the engine and would be in noncompliance from the date that compliance would otherwise have been required under the schedule set forth in Table 1, Table 2, or Table 3 of subsection (e).

(2) *Compliance Extension Based on No Verified Diesel Emission Control Strategy for Commercial Harbor Craft*. If the Executive Officer has not verified a diesel

emission control strategy or one is not commercially available for a particular engine, an annual extension in compliance, up to a maximum of two years, may be granted by the Executive Officer. The Executive Officer shall grant the extension upon determining that the following circumstances have been met:

(A) The owner or operator has applied to the Executive Officer for a compliance extension for an engine six months prior to each compliance deadline specified in subsections (e)(3)(B) and (e)(3)(B) and provided sufficient documentation to meet the conditions set forth below. The owner or operator may, six-months prior to the expiration of the extension, apply for an additional one-year extension. In such a case, the owner or operator shall once again be required to show to the Executive Officer's satisfaction that the conditions set forth below have been met:

1. The owner or operator must establish that it has applied a Compliance Option specified in subsections (e)(3) and (e)(4) to all applicable engines in its fleet for which a Compliance Option is feasible pursuant to the schedule set forth in Table 1, Table2 or Table 3 of subsection (e),
2. Identify each engine for which an extension is requested by engine serial number; engine manufacturer, model year, family, and series; and commercial harbor craft name, for which a specific diesel emission control strategy would jeopardize the original engine warranty and a statement from the engine manufacturer or authorized dealer stating the original engine warranty would be jeopardized; or
3. Identify each engine and equipment or vehicle combination for which an extension is requested by engine serial number; engine manufacturer, model year, family, and series; and commercial harbor craft name, for which no diesel emission control strategy is commercially available and a list of manufacturers that have been contacted with their responses to a request to purchase, and
4. Describe the reason(s) for the request for a compliance extension for each engine or commercial harbor craft.

(3) *Use of Experimental Diesel Particulate Matter Emission Control Strategies for Commercial Harbor Craft*. An annual compliance extension may be granted by the Executive Officer for the use of an experimental, or non-verified, diesel PM emission control strategy if a VDECS is not available or if the owner or operator can demonstrate that an existing VDECS is not feasible for their engines or application. The owner or operator shall keep documentation of this use in records as specified in paragraph (X)(X)(X). Each commercial harbor craft will be considered to be in compliance for the duration of the experiment, until the extension expires. The owner or operator must bring the commercial harbor craft into compliance within six months of the end of the annual compliance extension. The Executive Officer may grant the extension upon determining that the owner or operator has met the conditions specified below:

(A) The commercial harbor craft owner or operator has applied to the Executive Officer for a compliance extension six months prior to each compliance deadline, including annually if the owner or operator wishes to continue with the experimental controls. The application must include emissions data demonstrating the experimental control achieves at least a Level 1 diesel PM emission reduction through:

1. off-road/marine engine certification test data for the commercial harbor craft propulsion or auxiliary engine;
2. engine manufacturer test data;
3. emissions test data from a similar engine;
4. emissions test data used in meeting the requirements of the Verification Procedure for the emission control strategy implemented; or
5. emissions testing conducted under the following conditions:
   a. baseline testing may be conducted with the emission control strategy in place, provided the test sample is taken upstream of the emission control strategy;
   b. control strategy testing shall be performed on the commercial harbor craft engine with full implementation of the emission control strategy;
   c. the percent change from baseline shall be calculated as the baseline emissions minus control strategy emissions, with the difference being divided by the baseline emissions and the result expressed as a percentage;
   d. the same test method shall be used for determining both baseline emissions and control strategy emissions; and
   e. diesel PM, NOx, CO, HC, NMHC, and CO_2 testing shall be done in accordance with the method in International Organization for Standardization (ISO) 8178 Test procedures: ISO 8178-2: 1996(E) (“ISO 8178 Part 2”); or ISO 8178-4: 1996(E) (“ISO 8178 Part 4”), which are incorporated herein by reference.

(B) The application for extension must include the following: explanation demonstrating that the highest level VDECS are not feasible for the specific equipment or application (if applicable), identification of each engine (serial number, engine manufacturer, model year, family, and series), description of the emission control system to be demonstrated, emissions data required in (A) above, the contact information for the emission control system supplier, and a letter of intent from the supplier that they intend to apply for verification of the experimental system;

(C) The owner or operator must bring the commercial harbor craft into compliance within six months of the end of the compliance extension period;

(D) If VDECS are available, or become available during the extension period, and are determined to be feasible for the specific engine and equipment

type, the owner or operator must demonstrate that the experimental control achieves equivalent to or better than a Level 1 VDECS; and

(4) *Compliance Extension for Equipment Manufacturer Delays*. An owner or operator who has purchased new equipment in order to comply with subsection (e), including an owner or operator who has been granted a compliance extension per subsections (f)(2) or (f)(3) will be considered to be in compliance if the new equipment has not been received due to manufacturing delays, as long as the following conditions are met:

(A) The equipment was purchased, or the owner or operator and seller had entered into contractual agreement for the purchase, at least six months prior to the required compliance date as specified in subsection (e); and

(B) Proof of purchase, such as a purchase order or signed contract for the sale, including engine and / or VDECS specifications for each applicable commercial harbor craft, must be maintained by the owner or operator and provided to an agent or employee of ARB upon request.

(g) Diesel Emission Control Strategy Special Circumstances

An owner or operator shall maintain the original level of the elected Compliance Option for each engine once that engine is required to be in compliance, and is not required to upgrade to a higher level of Compliance Option after Phase 2 requirements have been met, except under specified special circumstances, as follows:

(1) In the event of a failure or damage of a diesel emission control strategy, the following conditions apply:

(A) Failure or Damage during the Warranty Period. If a diesel emission control strategy fails or is damaged within its warranty period and the diesel emission control strategy manufacturer or authorized dealer determines it cannot be repaired, the owner or operator shall replace the diesel emission control strategy with either the same level diesel emission control strategy or another approved Compliance Option as defined in subsections (e)(3) and (e)(4) within 90 days of diesel emission control strategy failure.

(B) Failure or Damage Outside of Warranty Period. If a diesel emission control strategy fails or is damaged outside of its warranty period, and it cannot be repaired, the owner or operator shall apply a Compliance Option within 90 days, as defined in subsections (e)(3) and (e)(4).

(h) Alternative Compliance Plans (under development)

(i) Recordkeeping Requirements

Beginning January 1, 2008, an owner or operator of commercial harbor craft shall maintain the following records or copies of records. The owner or operator shall provide the following records for inspection to an agent or employee of ARB upon request, including copies of these records at the department's expense, for all commercial harbor craft subject to compliance with the regulation:

(1) Owner or Operator Contact Information
- (A) Company name
- (B) Contact name, phone number, address, e-mail address
- (C) Address of equipment

(2) Commercial Harbor Craft Name

(3) Engine Information
- (A) Make of engine
- (B) Model of engine
- (C) Engine family (if applicable)
- (D) Engine serial number
- (E) Year of manufacture of engine (if unable to determine, approximate age)
- (F) Rated brake horsepower
- (G) Displacement
- (H) Control equipment (if applicable)
  - a. Type of diesel emission control strategy
  - b. Serial number of installed diesel emission control strategy
  - c. Manufacturer of installed diesel emission control strategy
  - d. Model of installed diesel emission control strategy
  - e. Installation date of installed diesel emission control strategy
  - f. Level of control (1, 2, or 3); if using a Level 1 or 2, include the reason for the choice

(4) Records of maintenance for each installed diesel emission control strategy

(5) Operation Information
1. Describe general use of engine
2. Typical load (percent of maximum bhp rating)
3. Typical annual hours of operation
4. Location and hours of operation in each location
5. If seasonal, months of year operated and typical hours per month operated

(6) For each engine for which an owner or operator is claiming an exemption pursuant to paragraph (f)(1), the retirement date correlated to the information in subsections (j)(1) through (j)(5) above

(7) For each engine for which an owner or operator is claiming an extension pursuant to paragraph (f)(3), the records of the test plan, including start and end dates of the experiment; diesel particulate matter emission control strategy manufacturer name and contact information (representative, address, and phone number); name and type of experimental diesel particulate matter emission control strategy; and targeted data to be generated by experiment, correlated to the information in subsections (j)(1) through (j)(5) above

(8) For each engine for which an owner or operator is claiming an extension pursuant to paragraph (f)(4), the purchase order or signed contract between the owner or operator and seller of the new equipment that has been purchased in order to comply with subsection (e)

(9) A statement of compliance, prepared beginning January 1, 2007, certifying that the owner's or operator's engines are in compliance as required, including the following:

1. "The commercial harbor craft (insert vessel name) are in compliance with title X, California Code of Regulations, section X; by (insert option chosen) and
2. The owner's or operator's name, business address, business telephone; and
3. The signature of the owner or operator or its agent and date signed.

(j) Reporting Requirements

(1) Compliance Plan. By January 1, 2007, each owner or operator of in-use commercial harbor craft subject to the requirements of subsection (e) shall provide the following information to the Executive Officer:

(A) Information listed in subsections (j)(1) through (j)(5), and

(B) An identification of the planned control strategy (Compliance Plan) for each engine and commercial harbor craft listed in subsections (j)(1) through (j)(5) that, when implemented, will result in compliance with subsection (e). If applicable, the information should include the Executive Order number issued by the Executive Officer for a VDECS that has been approved by the Executive Officer through the Verification Procedure. The Compliance Plan is not binding and can be changed by the owner or operator prior to the required compliance date(s).

(2) Demonstration of Compliance. By no later than the earliest applicable compliance date specified in subsections (e)(3)(B) or (e)(4)(B), the owner or

operator of an in-use commercial harbor craft subject to the requirements of subsection (e) shall provide the following information to the Executive Officer:

(A) Information listed in subsections (j)(1) through (j)(5), and

(B) An identification of the control strategy implemented for each engine in accordance with the requirements of subsection (e) for purposes of demonstrating compliance.

(3) Reporting for low use auxiliary and propulsion engines. Each owner or operator to whom subsection (c)(2) applies, shall submit a report to the Executive Officer by January 1, 2007, as described below:

(A) Owner or Operator Contact Information
(D) Company name
(E) Contact name, phone number, address, e-mail address
(F) Address of equipment

(B) Equipment and Engine Information
1. Make of equipment and engine
2. Model of equipment and engine
3. Engine family (if applicable)
4. Engine serial number
5. Year of manufacture of commercial harbor craft and engine (if unable to determine, approximate age)
6. Rated brake horsepower
7. Displacement
8. Control equipment (if applicable)
   a. Type of diesel emission control strategy
   b. Serial number of installed diesel emission control strategy
   c. Manufacturer of installed diesel emission control strategy
   d. Model of installed diesel emission control strategy
   e. Installation date of installed diesel emission control strategy
   f. Level of control (1, 2, or 3)

(C) Operation Information
1. Describe general use of engine
2. Typical load (percent of maximum bhp rating)
3. Typical annual hours of operation
4. Location and hours of operation in each location
5. If seasonal, months of year operated and typical hours per month operated

(k) Right of Entry

An agent or employee of the Air Resources Board has the right of entry to board commercial harbor craft for the purpose of inspecting propulsion and auxiliary engines and emission control strategies and their records to determine compliance to these regulations.

(l) Prohibitions

No person who is engaged in this State in the business of selling to an ultimate purchaser, or renting or leasing new or used commercial harbor craft or marine engines, including, but not limited to, manufacturers, distributors, and dealers, shall sell, offer for sell, import, deliver, purchase, receive, or otherwise acquire a new or used commercial harbor craft or marine engines for the purpose of selling, renting, or leasing, that does not meet the performance requirements of this regulation.

(m) Severability

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

(n) Submittal of Documents

(A) All documents required under this regulation to be submitted to the Executive Officer shall be submitted as follows:

California Air Resources Board
Stationary Source Division, Commercial Harbor Craft
P.O. Box 2815
Sacramento, California 95812-2815

(B) An alternative method, including electronic submittals, may be approved by the Executive Officer.

NOTE: Authority cited: sections 39600, 39601, 39618, 39658, 39659, 39666, 39667, 39674, 39675, 42400 et seq., 42402 et seq., 42410, 43013, 43018, California Health and Safety Code. Reference: sections 39618, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400 et seq., 42402 et seq., 42410, 40717.9, 43013, and 43